

1                   UNITED STATES DISTRICT COURT  
2                   NORTHERN DISTRICT OF CALIFORNIA

3                   NO. C 07-02757 SBA  
4                   DONNA MATHEWS  
5                   VERSUS  
6                   PAN AMERICAN LIFE INSURANCE COMPANY; and  
7                   DOE 1 through Doe 20, Inclusive

8                   VOLUME 1  
9                   Video deposition of MICHAEL JONES, 601  
10                  Poydras Street, 10th Floor, New Orleans,  
11                  Louisiana 70130, taken in the offices of  
12                  AFFILIATED REPORTING on Thursday, March  
13                  13, 2008.

14                  APPEARANCES:

15                  LAW OFFICES OF MICHAEL E. KINNEY  
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27                  VIDEOGRAPHER: KARL STIEGMAN

28                  REPORTED BY:

29                  THERESA MATHERNE  
30                  Certified Court Reporter  
31                  Registered Professional Reporter

1 DONNA MATHEWS VS. PAN AMERICAN LIFE

2 INSURANCE COMPANY;

3 VOLUME 1

4 Video deposition of MICHAEL JONES

5 Taken on March 13, 2008

6

7

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9 9. Attending physician

10 statement.

11 10. Medical records request.

12 11. Medical records.

13 12. Check and form.

14 13. Check and document.

15 14. Letter.

16 15. Letter.

17 16. Letter.

18 17. Claimant's statement.

19 18. Attending physician

20 statement.

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## S T I P U L A T I O N

2

3           It is stipulated and agreed by and  
4        between counsel for the parties hereto that  
5        the deposition of the aforementioned witness  
6        is hereby being taken under the Federal Rules  
7        of Civil Procedure, for all purposes, in  
8        accordance with law;

9           That the formalities of reading and  
10          signing are specifically not waived;

11           That the formalities of sealing,  
12       certification, and filing are specifically  
13       waived;

14           That all objections, save those as to the  
15       form of the question and the responsiveness of  
16       the answer, are hereby reserved until such  
17       time as this deposition, or any part thereof,  
18       may be used or sought to be used in evidence.

19 \* \* \*

20                   THERESA MATHERNE, Registered Professional  
21                   Reporter and Certified Court Reporter, in and  
22                   for the Parish of Jefferson, State of  
23                   Louisiana, officiated in administering the  
24                   oath to the witness.

25

26

1                           MICHAEL JONES,  
2       after having been first duly sworn by the  
3       above-mentioned court reporter, did testify  
4       as follows:

5                           (Video introduction.)

6       EXAMINATION BY MR. KINNEY:

7       Q. State your name for the record.

8       A. Sure. My name is Michael R. Jones.

9       Q. Mr. Jones, have you ever had your  
10       deposition taken before?

11      A. No, I have not.

12      Q. Have you had an opportunity to discuss the  
13       rules of a deposition with your attorney  
14       prior to starting today?

15      A. Yes.

16      Q. At the risk of repeating some of the  
17       things that he's probably told you, I want  
18       to make a clear record that we can use  
19       here in this case.

20      A. Okay.

21      Q. Let me just explain to you that the lady  
22       seated to your right is a court reporter.  
23       And she's taking down everything that is  
24       being said here today. That's everything  
25       everybody is saying here today.

26

1           And at the conclusion of the  
2 deposition, she's going to type up a  
3 booklet which will contain all of the  
4 testimony that's been given here today.

5           You'll have an opportunity to read over  
6 that booklet and to make changes in the  
7 booklet before we can use it in court.

8           But I want to tell you that if you do  
9 make any changes, I can comment on those,  
10 or any lawyer can comment on those in  
11 court. And that could be embarrassing to  
12 you and could affect the outcome of the  
13 case, especially if any of the changes are  
14 important ones.

15           Therefore, it's in everybody's best  
16 interest for you to give your best  
17 testimony here today. Do you understand  
18 that?

19           A. Yes.

20           Q. The oath you've been put under is the same  
21 oath that you would take in a court of  
22 law. You have the same obligation to tell  
23 the truth today as you would if this  
24 proceeding were going forward in a court  
25 of law.

26

1           So even though this appears to be an  
2           informal procedure in the court reporter's  
3           office, it is, in fact, a formal  
4           procedure, and you are under oath. Do you  
5           understand that?

6       A. Yes.

7       Q. I'm going to be asking you questions about  
8           things that happened a couple years ago.  
9           You may not remember completely everything  
10          that took place. If you don't remember,  
11          you can tell me you don't remember. But  
12          if you remember in part, then tell me the  
13          part that you do remember, what part you  
14          don't remember.

15           If I ask a question and you don't  
16          understand it, tell me you don't  
17          understand it. And I'll try to rephrase  
18          it so that you do understand it. Don't  
19          guess at anything. But if you have an  
20          answer that you believe is correct or that  
21          you can answer pretty much correctly, then  
22          I like to go with that answer. Do you  
23          understand all that?

24       A. Yes.

25       Q. Do you have any questions before we

26

1 proceed?

2 A. No.

3 Q. If you need a break at any time, just say  
4 so.

5 A. Okay.

6 Q. Is there any reason why we cannot proceed  
7 with your deposition at this time?

8 A. No.

9 Q. Have you had any medication today that  
10 would affect your ability to testify?

11 A. No.

12 Q. How old are you?

13 A. I'm 35.

14 Q. Where do you work?

15 A. I work at Pan American Life right here in  
16 New Orleans, Louisiana.

17 Q. What's the address where you work?

18 A. 601 Poydras Street, New Orleans,  
19 Louisiana, zip code 70130.

20 Q. What is your job title?

21 A. I am a senior claims examiner.

22 Q. Could you briefly give me your educational  
23 background?

24 A. Sure. I have an undergraduate in  
25 sociology. And on April 3rd, I will

26

1 finish my M.B.A.

2 Q. Where did you get your sociology degree?

3 A. Florida State University.

4 Q. Where, Florida State?

5 A. Florida State University.

6 Q. And your M.B.A. will be from where?

7 A. University of Phoenix.

8 Q. When did you get your bachelor's degree?

9 A. December of 1994.

10 Q. Do you have any special licenses?

11 A. Other than drivers license?

12 Q. Other than driver's license.

13 A. No.

14 Q. What about special insurance credentials?

15 Sometimes you see insurance people who

16 have a lot of letters after their name.

17 Do you have any of those?

18 A. No, I do not.

19 Q. Have you given any written or recorded

20 statement about this case?

21 A. To whom?

22 Q. To anybody.

23 A. No.

24 Q. Have you reviewed any documents prior to

25 coming to this deposition?

26

1 A. No.

2 Q. We are here about a case that's been filed  
3 in the United States District Court for  
4 the Northern District of California by  
5 Donna Mathews.

6 When is the last time that you have  
7 reviewed any documents pertaining to Donna  
8 Mathews?

9 A. It would have been at the time that I  
10 placed her on claim and issued benefits,  
11 so '06.

12 Q. You haven't looked at the file since then?

13 A. No.

14 Q. All right. Beginning -- following your  
15 bachelor's degree in 1994, could you just  
16 tell me where you've worked?

17 A. Sure. I worked for Unisys in Tallahassee,  
18 Florida.

19 Q. Unisys, U-N-I-S-Y-S?

20 A. Yes.

21 Q. How long were you there?

22 A. I was there for two years.

23 Q. Left when, about '96?

24 A. No. I started in '96.

25 Q. So '96 to '98 at Unisys?

26

1 A. Yes.

2 Q. Where did you go after that?

3 A. I went to Atlanta, Georgia. And I began  
4 to work for Meridian Health Care and  
5 C.S.R.G., which is now Ross Perot Systems.

6 Q. Did you work for both of them at the same  
7 time?

8 A. Well, Perot Systems and C.S.R.G. are  
9 actually the same company.

10 Q. You said Meridian Health?

11 A. Oh, I see what you're saying. No.

12 Q. Which did you work for first, Meridian or  
13 C.S.R.G.?

14 A. C.S.R.G.

15 Q. After Unisys you went to C.S.R.G.?

16 A. Yes.

17 Q. So did you start with C.S.R.G. in 1998?

18 A. Thereabouts.

19 Q. And how long did you work for C.S.R.G?

20 A. On and off, over the next four or five  
21 years.

22 Q. And somewhere in there you began to work  
23 for Meridian Health; is that right?

24 A. That's correct.

25 Q. When did you begin working for Meridian?

26

1 A. I couldn't give you a date.

2 Q. Estimate.

3 A. Somewhere in those four/five years.

4 Q. So between 1998 and 2002?

5 A. Yes.

6 Q. And how long did you work for Meridian?

7 A. Over that same time span. It wasn't a  
8 continual relationship with them.

9 Q. And they're both in Atlanta?

10 A. Yes.

11 Q. And then after you -- did you leave them  
12 both at about the same time?

13 A. Yes.

14 Q. Then where did you go?

15 A. I began to work for Jacobson Solutions.

16 Q. Jacobson Solutions?

17 A. Yes.

18 Q. What city is that located in?

19 A. Jacobson Solutions is actually located in  
20 Chicago, Illinois.

21 Q. Were you actually working for them in  
22 Chicago?

23 A. No.

24 Q. Where were you working for them?

25 A. All over. All over the eastern half of

26

1           the country.

2       Q.    You traveled?

3       A.    Yes.

4       Q.    Where were you headquartered?

5       A.    Atlanta was my home residence.

6       Q.    When did you begin for Jacobson?

7       A.    I guess that was 2002.

8       Q.    How long did you continue to work for  
9           Jacobson?

10      A.    I worked for Jacobson until 2004, middle  
11           of 2004. I'm sorry, the end of 2004.

12      Q.    Then where did you go?

13      A.    I worked for Pan American Life.

14      Q.    That was the same office here in New  
15           Orleans?

16      A.    Yes.

17      Q.    When did you start with Pan American?

18      A.    November 1, 2004.

19      Q.    What was your job with Jacobson Solutions?

20      A.    To work as an insurance specialist.

21      Q.    What business is Jacobson Solutions in?

22      A.    The insurance business.

23      Q.    Do they sell insurance?

24      A.    No. They provide solutions for insurance  
25           companies by providing them with

26

1           experienced insurance personnel who are  
2           able to come in and assist them in  
3           whatever their endeavors may be, whether  
4           it's customer service, whether it's claims  
5           processing, or benefit configuration and  
6           the like.

7       Q. So they provide consulting services to  
8           insurance companies. Is that a fair  
9           statement?

10      A. Yes.

11      Q. And that's what you were doing was  
12           providing consulting services?

13      A. Yes. We would show up -- I say we because  
14           we traveled in teams. We would show up,  
15           and we would help the clients.

16      Q. Was there a subject area within the  
17           general insurance industry that you  
18           particularly provided consultation on?

19      A. Just the things that I mentioned.

20      Q. I guess I'm confused. What do you  
21           particularly focus your work on?

22      A. Claims would be the main focus.

23      Q. And while you were at Jacobson Solutions,  
24           were you actually handling claims? Or  
25           were you rather advising insurance

26

1           companies on how they ought to do it?

2       A. No. I would handle claims.

3       Q. So you would go in to a particular  
4           insurance company, and you would actually  
5           handle their claims?

6       A. Uh-huh.

7       Q. Is that yes?

8       A. Yes.

9       Q. One of the rules of the deposition I  
10          forgot to mention is that it's much better  
11          to say yes or no than an uh-huh or unh-unh  
12          because the transcript comes out  
13          confusing.

14           C.S.R.G., when you worked for them,  
15          what were you doing for them?

16       A. I worked with claims with them as well.

17       Q. Are they an insurance company?

18       A. No. They provide solutions much the same  
19          as Jacobson Solutions.

20       Q. I see. So that would be they would send  
21          personnel in to a variety of insurance  
22          companies to do certain tasks?

23       A. Yes.

24       Q. And Meridian Health, what were you doing  
25          for them?

26

1 A. About the same.

2 Q. It was also claims?

3 A. Yes, it was also claims. And they  
4 provided personnel to handle claims  
5 situations as well.

6 Q. And back to Unisys, what were you doing  
7 for them?

8 A. That was also claims.

9 Q. Was Unisys the first employer that you  
10 worked for where you handled claims?

11 A. Yes.

12 Q. Did Unisys provide you with any special  
13 classes on how to handle claims?

14 A. Yes.

15 Q. What kind of classes did you take at  
16 Unisys?

17 A. Well, we had training classes where we  
18 would be, where we learned to work on the  
19 system. And we learned the flow of the  
20 claim throughout the life of the company,  
21 as far as how it came in through the mail,  
22 how we actually needed to adjudicate it,  
23 any kind of adjustments that might need to  
24 be made at that time, depending on their  
25 financial and administrative situation of

26

1           the claim.

2       Q.   What kind of claims were you handling  
3           while you were with Unisys?  Were they  
4           disability claims, life claims, health  
5           claims?

6       A.   These were medical claims and dental as  
7           well.

8       Q.   How about Meridian Health, what kind of  
9           claims were you handling with Meridian  
10           Health?

11      A.   Meridian was also a medical entity too.

12      Q.   Did Meridian provide you with any  
13           particular training on how to handle those  
14           claims?

15      A.   No.

16      Q.   C.S.R.G., what sort of claims were you  
17           handling for them?

18      A.   That was mental -- excuse me, medical,  
19           dental, and also, how to phrase it, some  
20           legal claims as well.  The claims against  
21           the Fen-phen suit.  I don't know how  
22           familiar anyone is with that.

23      Q.   Sure.

24      A.   Yes, that was something I did with them as  
25           well.

26

1 Q. No life or disability claims for C.S.R.G.;  
2 is that right?

3 A. Yeah, that's correct.

4 Q. Jacobson Solutions, what sort of claims  
5 were you handling there?

6 A. The same, medical, life -- excuse me,  
7 medical, dental, and mental health  
8 sometimes.

9 Q. When you came to work for Pan Am on  
10 November 1, 2004, what was your job title?

11 A. When I first came to Pan American Life?

12 Q. Yes.

13 A. Senior claims examiner.

14 Q. Were you in a particular department?

15 A. Yes.

16 Q. What was the department?

17 A. Policy benefits.

18 Q. What sort of claims were you handling when  
19 you first began working for Pan Am?

20 A. I handled life.

21 Q. Life but not disability; is that right?

22 A. That's correct.

23 Q. How long did you handle exclusively life  
24 claims?

25 A. Almost a year.

26

1 Q. Until around November of 2005?

2 A. No. Until August of 2005.

3 Q. And then did you begin to handle other  
4 sorts of claims after August of 2005?

5 A. Yes.

6 Q. What sort of claims did you begin to  
7 handle in August of 2005?

8 A. I became responsible for the disability  
9 line of insurance.

10 Q. At that time, August 2005, how many people  
11 were working, handling claims under the  
12 disability line of insurance?

13 A. I couldn't exactly -- two or three I  
14 suppose.

15 Q. Of which you were one; is that right?

16 A. Yes.

17 Q. Was Elaine Bourg also one?

18 A. No. She didn't handle claims.

19 Q. Was Cory Simon of the people you listed in  
20 your two or three people?

21 A. As my boss.

22 Q. Was he one of the two or three handling  
23 disability, the disability line of  
24 insurance in August of 2005?

25 A. Well, could you define handling?

26

1 Q. I'm just trying to find out how big the  
2 department was.

3 A. Small.

4 Q. I know. But I want to know, was it just  
5 you? Or was there somebody else there who  
6 was also handling, at the same level as  
7 you, handling the disability claims?

8 A. It was me.

9 Q. It was just you?

10 A. It was just me.

11 Q. Before you began handling the disability  
12 line claims, did you receive any training  
13 specific to disability claims?

14 A. No, not before.

15 Q. Since August of 2005, have you received  
16 any training specific to disability  
17 claims?

18 A. Yes, some.

19 Q. What training have you received?

20 A. How do you mean that?

21 Q. I don't know. You said you received some  
22 training on disability claims. What  
23 training?

24 A. Well, use of the materials that we have in  
25 the company, not necessarily that they

26

1           would be totally dedicated to disability.

2           Also information sharing with various  
3           vendors.

4       Q. Anything else?

5       A. Well, no.

6       Q. Did you take any classes on handling  
7           disability claims?

8       A. No.

9       Q. Were you given any written materials on  
10           handling disability claims?

11      A. Again, nothing specific to handling solely  
12           disability claims.

13      Q. Were you given more generic sorts of  
14           materials about handling claims, in  
15           general?

16      A. Yes.

17      Q. Since August of 2005 when you began  
18           handling disability claims, have you been  
19           engaged in any other job duties at Pan Am  
20           other than handling disability claims?

21      A. No.

22      Q. About how many disability claims do you  
23           handle in a month?

24      A. All of them.

25      Q. How many? What's the number?

26

1 A. Are you asking me how many new claims we  
2 get?

3 Q. Let's start with that. How many new  
4 claims do you handle per month?

5 A. I think on average it would be safe to say  
6 we maybe get three to five in a month.

7 Q. Three to five new disability claims per  
8 month?

9 A. Yes.

10 Q. How many continuing claims do you handle  
11 each month?

12 A. People that are actually already on claim?

13 Q. Yes. That you actually do something with.  
14 Not just automatically receive a check,  
15 but that you actually have something to do  
16 with it.

17 A. Fifteen, maybe, 15 to 20.

18 Q. Have you received any training of any sort  
19 at Pan Am regarding handling claims for  
20 rehabilitation benefits?

21 A. No.

22 Q. Have you received any written materials  
23 that address how to handle rehabilitation  
24 benefits?

25 A. No.

26

1 Q. Prior to coming to Pan Am, had you ever  
2 handled a claim for rehabilitation  
3 benefits?

4 A. How do you mean that?

5 Q. As broadly as possible.

6 A. Well, yes.

7 Q. When had you handled a claim for  
8 rehabilitation benefits?

9 A. Well, throughout my career. A lot of  
10 medical claims that would come in would  
11 be, you would define it as rehabilitation.

12 Q. So when you handled medical claims, some  
13 of the claims included claims for  
14 vocational rehabilitation?

15 A. Physical rehabilitation.

16 Q. You mean -- okay, physical rehabilitation.  
17 Let me ask you about vocational  
18 rehabilitation. You understand there's a  
19 difference between physical or medical  
20 rehabilitation and vocational or  
21 occupational rehabilitation.

22 A. Uh-hun.

23 Q. Had you ever handled a claim, prior to  
24 coming to Pan Am, had you ever handled a  
25 claim for vocational or occupational

26

1           rehabilitation?

2       A. Yeah, some.

3       Q. Where had you handled those?

4       A. C.S.R.G.

5       Q. Did those come up in the context with  
6           medical policies?

7       A. Yes.

8       Q. And did C.S.R.G. -- strike that. C.S.R.G.  
9           didn't actually write any policies.

10          Right.

11       A. No, they did not.

12       Q. You went to a different insurer who had a  
13           policy that included rehabilitation  
14           benefits; is that right?

15       A. Yes.

16       Q. What insurer did you work for who had a  
17           medical policy that included vocational or  
18           occupational rehabilitation benefits?

19       A. That's a very broad question. I worked  
20           for a lot of insurers, and many of them  
21           had these benefits in their policies. I  
22           couldn't be more specific than that.

23       Q. Okay.

24       A. Given that over the course of a year I  
25           could have worked for three, four, five

26

1           insurers in a year.

2       Q. As you sit here today, you cannot recall  
3           the name of any insurance company that you  
4           worked for that had a medical policy that  
5           provided for vocational rehabilitation  
6           benefits; is that correct?

7       A. That's correct.

8       Q. Do you recall, as you sit here today, the  
9           policy provisions of any of the policies  
10          that provided for vocational  
11          rehabilitation benefits while you worked  
12          with C.S.R.G.?

13      A. No.

14      Q. Do you recall whether there were policies  
15          that you worked with that contained a  
16          separate provision for vocational  
17          rehabilitation benefits?

18      A. No.

19      Q. No you don't recall that?

20      A. No, I don't.

21      Q. When you worked for C.S.R.G. and you were  
22          required to make decisions about  
23          rehabilitation benefits, what criteria did  
24          you use to decide whether to grant  
25          vocational rehabilitation benefits?

26

1 A. Whatever the guidelines were for the  
2 client.

3 Q. So you would look to a specific set of  
4 guidelines that would be provided to you?

5 A. Yes. They would have provided them.

6 Q. And then you would see whether or not the  
7 claim met those guidelines?

8 A. That's correct.

9 Q. Then if it did, you would authorize the  
10 benefits?

11 A. That's correct.

12 Q. As you sit here today, do you recall in  
13 any specific case what those guidelines  
14 were?

15 A. No. I couldn't be specific.

16 Q. In your job at Pan American, are you  
17 required to deal with claims arising under  
18 different disability insurance policies?

19 A. No. All the policies are for Pan American  
20 Life.

21 Q. Does Pan American have more than one  
22 disability policy?

23 A. Yes, they do.

24 Q. And are you required to review claims  
25 under its various disability insurance

26

1       policies? Or are you limited to a single  
2           disability insurance policy?

3       A. No. All the policies.

4       Q. And do the policies have different terms  
5           that affect whether or not the benefits  
6           are granted?

7       A. Yes.

8       Q. So do you keep all of the policies at your  
9           desk?

10      A. Yes.

11      Q. Who is your supervisor at Pan Am?

12      A. Cory Simon.

13      Q. Has he been your supervisor since you  
14           started handling disability claims in  
15           August of 2005?

16      A. Yes.

17      Q. Now, you testified earlier that you've  
18           handled on average three to five new  
19           claims for disability per month on  
20           average; is that right?

21      A. Yes.

22      Q. So would it be correct that you handled  
23           between 36 and 60 claims per year for  
24           disability benefits, new claims?

25      A. You said 36 and 60?

26

1 Q. Between 36 and 60.

2 A. Yes.

3 Q. What percentage of those claims do people  
4 apply for rehabilitation benefits?

5 A. A very small percentage.

6 Q. Since August of 2005 when you started  
7 working in this line, how many claims for  
8 disability benefits have you personally  
9 handled -- strike that. That was broad.

10 Since August 2005, how many claims for  
11 rehabilitation benefits have you  
12 personally handled?

13 A. Three.

14 Q. How many of those claims have you provided  
15 benefits?

16 A. None.

17 Q. We're gonna be talking about the claim  
18 Donna Mathews made at some length. But I  
19 want to ask you about the other two, first  
20 of all.

21 Do you recall those other two claims  
22 for rehabilitation benefits?

23 A. Yes.

24 Q. The first one of those two, what was the  
25 insured's disability?

26

1 A. In which one are you referring to?

2 Q. Pick one, the earlier one.

3 A. What was the insured's disability?

4 Q. Yes.

5 A. It would really help if you give me which  
6 one you would like to talk about.

7 Q. Well, how are we going to demark one from  
8 the other? Let's pick the first one. Is  
9 that okay? Can you recall one that you  
10 think was the first one?

11 A. Sure thing.

12 Q. That person, was it a man or a woman?

13 A. Woman.

14 Q. What was her disability?

15 A. She was injured in a fall at her home.  
16 She broke her neck.

17 Q. What did that preclude her from doing?

18 A. Well, she was a quadriplegic.

19 Q. What kind of rehabilitation did she  
20 request?

21 A. Voice activated software to improve her  
22 quality of life.

23 Q. And did Pan Am provide her with that  
24 benefit?

25 A. No.

26

1 Q. Why not?

2 A. Well, the request was made in some very  
3 vague terms.

4 Q. Any other reason?

5 A. Well, no.

6 Q. The other claim, other than Ms. Mathews'  
7 claim for rehabilitation benefits, was  
8 that made by a man or a woman?

9 A. That was by a woman as well.

10 Q. That woman, what was her disability?

11 A. I cannot specifically recall. I believe  
12 it had something to do with her -- I can't  
13 specifically recall.

14 Q. What sort of rehabilitation benefit did  
15 she ask for?

16 A. She wanted money so that she could become  
17 a real estate agent.

18 Q. Did Pan Am provide that benefit?

19 A. No.

20 Q. Why not?

21 A. Because her request was also on very vague  
22 terms.

23 Q. Any other reason why you declined that?

24 A. No.

25 Q. Is there a policy or practice that you

26

1 utilize when a request for rehabilitation  
2 benefits comes in?

3 A. Yes.

4 Q. Could you describe that policy or  
5 practice?

6 A. I actually use the policy itself.

7 Q. The actual physical insurance policy?

8 A. Yes.

9 Q. You get the policy out and do what with  
10 it?

11 A. I get the policy out, and I read it.

12 Q. Okay.

13 A. And with specific attention to the rehab  
14 language.

15 Q. Then what?

16 A. I apply the request -- excuse me, compare  
17 the request to what the policy language  
18 is.

19 Q. Okay. Then what?

20 A. I make a determination as to whether or  
21 not their request fits the terms of the  
22 policy.

23 Q. Anything else?

24 A. No.

25 Q. I take it since you've turned down all the  
26

1 requests that have come your way, you  
2 haven't seen any that have actually fit  
3 the terms of the policy; is that right?

4 A. That's correct.

5 Q. Is that the practice that you followed for  
6 Ms. Mathews' request for rehabilitation?

7 A. Yes.

8 Q. Let's look at a document that was  
9 previously marked in the last deposition  
10 as Exhibit 3, which is called a disability  
11 income policy. I'll show you that  
12 document. Do you see that Exhibit 3?

13 A. Yes.

14 Q. Are you familiar with this disability  
15 income policy through your work at Pan Am?

16 A. Yes, I am.

17 Q. Is this, to your knowledge, is this an  
18 own-occupation policy?

19 A. That writer is not attached to the policy,  
20 that I recall.

21 Q. There would be a writer attached to the  
22 policy if it was an own-occupational  
23 policy?

24 A. Yes. There are own-oc writers that are  
25 attached to the policies.

26

1 Q. Your understanding is if there's no  
2 writer, then it's an all-occupational  
3 policy?

4 A. Yes. Unless there's language in there  
5 that might refer to a regular job.

6 Q. I want you it skip on up to page six,  
7 which is bates stamp PAL0947. Do you see  
8 that?

9 A. Uh-huh.

10 Q. There's a section there on the left column  
11 entitled "rehabilitation." Do you see  
12 that?

13 A. Yes, I do.

14 Q. And is that the section that you read when  
15 Ms. Mathews' request for rehabilitation  
16 benefits came in?

17 A. Yes.

18 Q. All right. I want you to look at the  
19 first sentence of that. "We will pay for  
20 a rehabilitation program if we approve it  
21 in advance." Do you see that?

22 A. I sure do.

23 Q. What retirements -- strike that. What  
24 things are necessary for you to approve a  
25 rehabilitation program?

26

1 A. An actual plan.

2 Q. Which is what exactly?

3 A. Well, depends on the sort of rehab, the  
4 benefit of the person wanted to do.

5 Excuse me, the benefit that -- the program  
6 that the person wanted to pursue. It  
7 would be depend on that.

8 Q. Under what circumstances would you approve  
9 a plan?

10 A. If we had a complete plan.

11 Q. What is a complete plan, in your  
12 estimation?

13 A. Well, a complete plan would need to give  
14 you a dollar amount. It would need to  
15 give you a time line. It would need to  
16 give you some indication as to what their,  
17 what they anticipate this plan  
18 accomplishing for them, them being  
19 insured.

20 Q. Anything else?

21 A. Nothing I can think of right at this  
22 moment.

23 Q. So is it correct to say that if  
24 Ms. Mathews had submitted a plan that  
25 contained a dollar amount, a time line,

26

1 and what she intended to accomplish that  
2 she would have received rehabilitation  
3 benefits?

4 MR. EVANS:

5 Objection. Calls for  
6 speculation, incomplete hypothetical.

7 MR. KINNEY:

8 I'm not trying to give him a  
9 hypothetical. I'm trying to give him  
10 a basis. Go ahead, you can answer  
11 it.

12 MR. EVANS:

13 You can answer it.

14 THE WITNESS:

15 I'm sorry.

16 BY MR. KINNEY:

17 Q. Is it correct that if Ms. Mathews had  
18 submitted a rehabilitation document to you  
19 that included the dollar amount, the time  
20 line, and what she hoped to accomplish  
21 that you would approved her rehabilitation  
22 plan?

23 MR. EVANS:

24 Same objection. It's a  
25 incomplete hypothetical.

26

1 BY MR. KINNEY:

2 Q. You may respond.

3 A. I really could not be sure. There's a lot  
4 of details.

5 Q. So there's something else besides those  
6 three elements, then, that you would use  
7 to make your decision; is that right?

8 MR. EVANS:

9 Objection. Argumentative.

10 Those elements are completely  
11 undefined. Does the plan have a  
12 20-year course of action? Is that  
13 the time line? It's incomplete.

14 BY MR. KINNEY:

15 Q. You can answer.

16 A. It would be difficult for me to give a  
17 very specific answer to that question  
18 because there would just be -- in those  
19 subjects that I provided for you, there  
20 would be a lot of discretion. There would  
21 be a lot of variables to try to  
22 understand.

23 Q. So it's not just a matter of submitting  
24 something in those areas. It's actually,  
25 also depends on the content of the

26

1 submission in those areas; is that right?

2 A. I think that's an accurate statement.

3 Q. What is the maximum dollar amount that

4 somebody could submit a rehabilitation

5 plan for that you would approve?

6 MR. EVANS:

7 Objection. Calls for

8 speculation, incomplete hypothetical.

9 THE WITNESS:

10 It would really depend on the

11 policy.

12 BY MR. KINNEY:

13 Q. On this policy?

14 MR. EVANS:

15 Same objection.

16 THE WITNESS:

17 I don't have an answer for that.

18 BY MR. KINNEY:

19 Q. Is there some place you could go to to

20 find the answer to that?

21 A. Yes, I suppose.

22 Q. Where?

23 A. It would really depend on the policies,

24 the individual policy that the request is

25 being made on. Some of the policies

26

1           actually detail the dollar amount.

2   Q.  Well --

3   A.  I just don't recall if this particular  
4       one, right off the top of my head, had one  
5       of those elements.

6   Q.  Well, please feel free to look through  
7       them and tell me if you feel that there is  
8       a dollar amount that's involved in this  
9       particular policy.

10   A.  As I flip through this, I don't see any  
11       particular.

12   Q.  So is there a dollar amount that would be  
13       too high for you to approve a  
14       rehabilitation program under this policy?

15   A.  I couldn't answer that.

16   Q.  Why not?

17   A.  Is there a dollar amount? I mean, you  
18       just want me to pull one out of the air?

19   Q.  I want an answer, yes or no. Is there a  
20       dollar amount that would make the  
21       rehabilitation program unacceptable to  
22       you?

23   A.  I've never been down that road. I  
24       couldn't answer that.

25   Q.  How about a time line? You say a time

26

1       line is an important element of a  
2       rehabilitation plan. What is the maximum  
3       acceptable time line under this policy  
4       that you would accept for a rehabilitation  
5       plan?

6                    MR. EVANS:

7                    Objection. Calls for  
8                    speculation and complete  
9                    hypothetical.

10          BY MR. KINNEY:

11          Q. You can answer.

12          A. I really couldn't answer that.

13          Q. Would you accept, maybe, a time line for  
14                rehabilitation of one year under this  
15                policy?

16          A. It's possible.

17          Q. Would you accept a time line for  
18                rehabilitation of two years under this  
19                policy?

20          A. It's possible.

21          Q. Would you accept a time line for  
22                rehabilitation of three years under this  
23                policy?

24                    MR. EVANS:

25                    Object to these questions as  
26

1                   incomplete hypotheticals,  
2                   argumentative.

3       BY MR. KINNEY:

4       Q. You may answer.

5       A. Again, it's possible.

6       Q. Would you accept a rehabilitation plan of  
7                   ten years under this policy?

8       A. I think that would be kind of strange. I  
9                   really couldn't answer that.

10      Q. You don't know yes or no up to ten years?

11      A. I --

12                  MR. EVANS:

13                  Objection. Incomplete  
14                  hypothetical.

15                  MR. KINNEY:

16                  Could you read him the question  
17                  again?

18                  (The following was read  
19                  Back: Question. Would you  
20                  accept a rehabilitation plan of  
21                  ten years under this policy?  
22                  You don't know yes or no up to  
23                  ten years?)

24                  THE WITNESS:

25                  I couldn't answer that.

26

1 BY MR. KINNEY:

2 Q. How about 20 years?

3 MR. EVANS:

4 Objection calls for speculation,

5 incomplete hypothetical.

6 THE WITNESS:

7 I couldn't answer that.

8 BY MR. KINNEY:

9 Q. So you don't know if you could accept a  
10 rehabilitation plan that ran for 20 years?

11 A. Not at this point, no.

12 Q. And then finally the third element that  
13 you listed was what the plan intended to  
14 accomplish; is that right?

15 A. Yes.

16 Q. What, in general, would be the definition  
17 of an acceptable goal?

18 A. A situation that would be favorable for  
19 both the insured and the company.

20 Q. How would it be favorable for the company?

21 A. That we would've fulfilled our obligation  
22 by assisting the insured.

23 Q. Is there ever, would there ever be a  
24 situation where the goal would be  
25 favorable to the insured but not to the

26

1 company?

2 MR. EVANS:

3 Objection. Calls for

4 speculation.

5 THE WITNESS:

6 Could you repeat that question?

7 BY MR. KINNEY:

8 Q. Would there ever be a situation where the  
9 goal would be favorable to the insured but  
10 not to the company?

11 MR. EVANS:

12 Same objection.

13 THE WITNESS:

14 I could imagine lots of things.

15 BY MR. KINNEY:

16 Q. Give me an example.

17 MR. EVANS:

18 Same objection.

19 MR. KINNEY:

20 Okay. I heard your objection.

21 BY MR. KINNEY:

22 Q. Go ahead and answer.

23 A. No. Not right off the top of my head.

24 Q. Going the other way, would there ever be a  
25 situation where you felt that the goal was

26

1           not favorable for the insured but was  
2           favorable for the company?

3           MR. EVANS:

4                 Objection. Calls for  
5                 speculation.

6           THE WITNESS:

7                 No, I couldn't answer that.

8       BY MR. KINNEY:

9       Q. Do you recall what Ms Mathews' goal was  
10           when she asked for rehabilitation?

11      A. To my recollection, she did not have a  
12           goal.

13      Q. What do you recall, as we sit here today,  
14           about her request for rehabilitation?

15      A. Her request was impossibly vague. It was  
16           something along the lines of I would like  
17           to go to any one of the number of schools  
18           to do maybe -- it was something along the  
19           lines maybe I want to go become a nurse.

20           And that was pretty much it.

21           It was just maybe I want to go to maybe  
22           four or five schools I think she listed.

23           I think I would like to maybe some day be  
24           a nurse, but I'm not really sure.

25      Q. Would becoming a nurse be an acceptable

26

1           goal to meet that element of the  
2           requirements for a rehabilitation benefit?

3       A. What element was that, sir?

4       Q. The element that you listed as one of the  
5           elements that you consider in granting  
6           benefits, the goal element.

7       A. It's possible.

8       Q. In Ms. Mathews' case, if Ms. Mathews had  
9           said she wanted to become a nurse, would  
10           that have been an adequate goal for  
11           rehabilitation benefits?

12           MR. EVANS:

13                   Objection. Incomplete  
14                   hypothetical. Calls for speculation.

15           THE WITNESS:

16                   Could you repeat the question?

17           BY MR. KINNEY:

18       Q. In Ms. Mathews' case, if she had said she  
19           wanted to become a nurse, would that have  
20           been an adequate goal for purposes of  
21           rehabilitation benefits?

22       A. That's possible.

23           MR. EVANS:

24                   Same objection.

25           BY MR. KINNEY:

26

1 Q. But you're not sure?

2 A. No. Not as it was presented.

3 Q. I'm just asking you just a flat out, just  
4 if she said I want to be a nurse, would  
5 that have been enough of a goal for  
6 rehabilitation benefits?

7 MR. EVANS:

8 Same objection. Incomplete  
9 hypothetical. Calls for speculation.

10 THE WITNESS:

11 It's possible.

12 BY MR. KINNEY:

13 Q. Is it possible that it wouldn't have been  
14 an acceptable goal?

15 A. That's correct.

16 Q. How do you decide whether that's an  
17 acceptable goal or not?

18 A. Well, using those guidelines and applying  
19 them to the policy.

20 Q. Well, here's the policy. It's in front of  
21 you. You see it?

22 If Ms. Mathews had written to you and  
23 said I want to have rehabilitation  
24 benefits to become a nurse, would that  
25 have been adequate as a goal to qualify

26

1 her for rehabilitation benefits?

2 A. It's possible. But I don't recall her  
3 actually stating that.

4 Q. Is it also possible that you would still  
5 have declined the benefits if she said  
6 that?

7 A. It's possible.

8 Q. Because of the goal?

9        A. Because of the goal?

10 Q. Right.

11 A. I can't exactly say that.

12 Q. Why not?

13 A. I'm sorry. Perhaps I'm not following you.

14 Q. You told me that you have certain  
15 considerations that you weigh to determine  
16 whether someone gets rehabilitation  
17 benefits: Dollar amount, time line, and  
18 the goal they seek to accomplish.

19 Those are the three elements that you  
20 look to to decide whether or not you're  
21 gonna provide rehabilitation benefits.

22 Right?

23 A. Yes.

24 Q. And I'm talking about the goal. I'm  
25 asking is, was there something, is there

1 something wrong with a goal of becoming a  
2 nurse in Ms. Mathews' case?

3 A. I don't believe there's anything wrong  
4 with that as a goal.

5 Q. So that would have an acceptable goal for  
6 rehabilitation benefits; is that right?

7 A. That's possible.

8 Q. Well, why can't you just say yes? What  
9 makes you hedge it that way?

10 MR. EVANS:

11 Objection. Argumentative. And  
12 my objection still stands because  
13 these are incomplete hypotheticals  
14 and because they call for  
15 speculation.

16 BY MR. KINNEY:

17 Q. You can answer.

18 A. Could you repeat your question?

19 Q. What else do you need to know about  
20 Ms. Mathews' goal, other than that she  
21 wants to be a nurse, for you to decide  
22 whether her goal is acceptable?

23 A. Well, I think one thing you would want to  
24 know is, is it possible for the person to  
25 actually become a nurse?

26

1 Q. How would you decide that?

2 A. If it was medically impossible for her to  
3 become a nurse, then that would not be a  
4 good goal.

5 Q. Did you ever make that determination in  
6 Ms. Mathews' case?

7 A. We never got that far. She never  
8 specifically stated she wanted to be a  
9 nurse and presented a plan to reference  
10 that.

11 Q. Let's go to another exhibit we previously  
12 marked as Exhibit 4. You should have it  
13 there.

14 A. Okay.

15 Q. That's entitled "An income protection  
16 policy." Do you see that?

17 A. Uh-huh.

18 Q. Yes?

19 A. Yes.

20 Q. What's the difference between an income  
21 protection policy and a disability income  
22 policy, in general?

23 A. From my prospective?

24 Q. Yes.

25 A. Not a lot.

26

1 Q. From your prospective as a --

2 A. As a claims examiner.

3 Q. As a claims examiner, they're essentially

4 the same; is that right?

5 A. Yes.

6 Q. Now, do you also have a copy of the income

7 protection policy at your desk?

8 A. Yes, I do.

9 Q. And Ms. Mathews was insured under both

10 policies, did you know that?

11 A. I accept you saying that.

12 Q. But you didn't know that until I told you?

13 A. Well, it makes sense. I recall she did

14 have more than one policy.

15 Q. Did you review the language of both

16 policies when she asked for rehabilitation

17 benefits?

18 A. Yes.

19 Q. Was it the same? Was the language of both

20 policies the same?

21 A. I don't recall.

22 Q. Would it have mattered to you if the

23 language was different?

24 A. Yes.

25 Q. I want you to look at page six on the

26

1           upper right-hand portion. Do you see  
2           that?

3       A. Yes, I do.

4       Q. Rehabilitation?

5       A. Yes.

6       Q. Now, you just read the rehabilitation  
7           provision in Exhibit 3. Now you see the  
8           rehabilitation provision in Exhibit 4.

9       A. Uh-huh.

10      Q. Are there differences between the two that  
11           would affect your decision whether or not  
12           to grant rehabilitation benefits?

13      A. No.

14      Q. Okay. In December 2005, do you know how  
15           many insurance policies for disability  
16           benefits Ms. Mathews had in force with Pan  
17           American Life Insurance Company?

18      A. I believe there were three.

19      Q. So we've looked at two insurance policies  
20           here, Exhibit 3 and Exhibit 4. Is it your  
21           understanding that there is yet another  
22           insurance policy that we have not looked  
23           at?

24      A. No. We just looked at two.

25      Q. You just told me there was three.

26

1 A. Yes, there are three policies.

2 Q. So is there another policy that we haven't  
3 looked at?

4 A. I don't believe so. And I say that  
5 because of the policy types.

6 Q. Okay. What about the policy types tells  
7 you that these two are all of the policies  
8 that you need to look at?

9 A. Well, it's possible for a person to have  
10 two policies and have them be of the same  
11 policy, the same type of policy.

12 Q. Is that what Ms. Mathews had?

13 A. I believe so.

14 Q. Do you know, the third policy, which of  
15 these two policies was it like?

16 A. No, I don't recall that.

17 Q. You don't.

18 VIDEOGRAPHER:

19 I need to change tapes.

20 (Off the record.)

21 BY MR. KINNEY:

22 Q. How do you find out that a new claim for  
23 disability benefits has come in to Pan Am?

24 A. We would receive the claim forms, and they  
25 end up on my desk.

26

1 Q. And what do you do then?

2 A. I begin the evaluation process.

3 Q. What do you usually get when the claim  
4 form comes in, just the claim form itself  
5 and nothing else?

6 A. Well, no. There's the claim form and then  
7 the claim proofs.

8 Q. Okay. Is the claim form -- who fills out  
9 the claim form?

10 A. Well, the claim statement is just what I'm  
11 thinking of when I think claim form, is  
12 filled out by the claimant.

13 Q. Then you also get something called claim  
14 proof?

15 A. Well, no. The claim proofs would be all  
16 the materials that make up the claim.

17 Q. The very first piece of paper you get is  
18 the claim form; is that right?

19 A. Well, it's part of it. It normally comes  
20 as a package.

21 Q. What else is in the package?

22 A. You have the attending physician  
23 statement. You have the claimant  
24 statement. You have the occupational  
25 description statement. You have the tax  
26

1 records and the HIPPA authorization.

2 Q. Those all come in together usually?

3 A. Yes.

4 Q. When you get all that information in, what  
5 do you do? What's the first thing you do  
6 once you see, okay, I got all this stuff?

7 A. First thing I would do is order the  
8 medical records if the HIPPA had come in  
9 with the package. If something is  
10 missing, then I send out a letter to  
11 request whatever is missing.

12 Q. Do you do -- do you check to see that  
13 policy is in force?

14 A. Yes, I do.

15 Q. You do that at the beginning of the claim?

16 A. Yes.

17 Q. How do you do it?

18 A. I will look at the software that we have  
19 that let's you know if the person has paid  
20 their premiums.

21 Q. Does that software tell you what insurance  
22 policies they have with Pan American?

23 A. Yes.

24 Q. Is it your practice to check and see what  
25 insurance policies they have?

26

1 A. Yes.

2 Q. Does the software that you have tell you  
3 how they go about paying the premium? In  
4 other words, does it show whether there's  
5 automatic withdrawals from the account or  
6 whether they send a check in, how they do  
7 it?

8 A. Yes.

9 Q. It does show that?

10 A. Yes, it does.

11 Q. Do you check to see if there's a waiver of  
12 premium provision associated with the  
13 policy?

14 A. Yes, I do.

15 Q. Right there that first day, if there's a  
16 waiver of premium provision associated  
17 with the policy, do you do anything about  
18 the waiver of premium?

19 A. No.

20 Q. At some point do you do anything about the  
21 waiver of premium?

22 A. At some point, yes.

23 Q. What's that point?

24 A. That would be at the point that the  
25 insured was actually going to begin to

26

1 receive benefits.

2 Q. So at the point when you were gonna begin  
3 to provide benefits, you would do  
4 something about the waiver of premium  
5 provision; is that right?

6 A. Yes.

7 Q. What would you typically do about the  
8 waiver of premium provision at that point?

9 A. I would activate the waiver of premium in  
10 the software.

11 Q. How would you do that? Physically, what  
12 do you have to do?

13 A. You have to change the codes in the  
14 software.

15 Q. So you just type something into the  
16 computer?

17 A. Yes, you do.

18 Q. And then premiums are then waived; is that  
19 right?

20 A. More or less, yes. I'm sorry, yes.

21 Q. Let me hear about the less part.

22 A. I'm sorry, yes.

23 Q. The premiums are then waived; is that  
24 right?

25 A. Yes.

26

1 Q. Now, you can see from your computer screen  
2 that in some cases they're automatic  
3 withdrawals from the checking account to  
4 pay the premium. Right?

5 A. Yes.

6 Q. So when the premiums are waived, does that  
7 automatically shut off the withdrawal from  
8 the checking account?

9 A. No, it did not.

10 Q. So what has to be done in order to shut  
11 off the withdrawals from the checking  
12 accounts?

13 A. We would have to make a -- you would have  
14 to perform a special transaction in order  
15 to turn off the automatic withdrawal.

16 Q. Who does that?

17 A. That's me.

18 Q. And is it your practice to do that  
19 whenever you see that there are automatic  
20 withdrawals being taken?

21 A. Today?

22 Q. Yes.

23 A. Yes.

24 Q. Has that always been your practice?

25 A. No.

26

1 Q. When did your practice change?

2 A. When I realized that activating the waiver  
3 premium would not automatically turn off  
4 the automated withdrawal.

5 Q. When did you find that out?

6 A. In '06.

7 Q. Was that in connection with the Mathews  
8 case?

9 A. Yes.

10 Q. How did you find that out?

11 A. When she called up screaming.

12 Q. Did you talk to anybody about that subject  
13 at Pan Am?

14 A. Yes. After she called up screaming.

15 Q. Who did you talk to?

16 A. I spoke to some individuals in the billing  
17 department.

18 Q. Do you remember who?

19 A. Not particular.

20 Q. Do you remember what was told to you?

21 A. Yes. They told me how to take it out of  
22 the automatic withdrawal.

23 Q. I take it that was the first occasion in  
24 which you learned how to do that; is that  
25 right?

26

1 A. Yes.

2 Q. Did you get anything in writing about that  
3 from the billing department?

4 A. No.

5 Q. No memos were generated or nothing like  
6 that?

7 A. No.

8 Q. Now, in your department there are other  
9 insurance claims personnel who handle  
10 claims on subjects other than disability;  
11 is that right?

12 A. That's correct.

13 Q. Have you ever talked to them about the  
14 fact that you have to do something special  
15 to turn off the automatic withdrawals from  
16 accounts?

17 A. Have I ever?

18 Q. Yes.

19 A. Yes.

20 Q. Since after the Mathews case?

21 A. Yes.

22 Q. And were they already aware that something  
23 had to be done in that regard?

24 A. Surprisingly, yes.

25 Q. Do you know how they became aware of that

26

1 factor?

2 A. No, I don't.

3 Q. One of the things that you get at the  
4 inception of the claim is something called  
5 an attending physician statement; is that  
6 right?

7 A. That's right.

8 Q. What information do you look for on the  
9 attending physician statement?

10 A. Well, I look to see if there is a day  
11 given for a return to work. I look to see  
12 the physician's address. I look to see  
13 their diagnosis.

14 I look for just a general completeness  
15 of the form, their beginning date of  
16 disability, all the things that are listed  
17 on the form.

18 Q. Let me show you a document which we will  
19 mark as Exhibit 9 for the purpose of these  
20 depositions. You have that in front of  
21 you now, sir?

22 (Exhibit 9, attending physician  
23 statement, was marked for  
24 identification.)

25 A. Yes, I do.

26

1 Q. Is this an attending physician statement?

2 A. Yes, it is.

3 Q. Can you tell when Pan American Life  
4 received this document?

5 A. Sure. February 6, 2006.

6 Q. And this is relating to Donna Mathews; is  
7 that right?

8 A. That's correct.

9 Q. And I want you to turn to the second page  
10 of this document, the section nine called  
11 "prognosis." Do you see that?

12 A. Yes, I do.

13 Q. And you see the notation about returning  
14 to regular work? Do you see that?

15 A. Yes, I do.

16 Q. And that indicates that at the time this  
17 doctor wrote this, he thought  
18 March 15, 2006. Do you see that?

19 A. Yes, I do.

20 Q. What do you do with that piece of  
21 information when you see it on an  
22 attending physician statement?

23 A. What do I do with it?

24 Q. Yeah. Does that get programmed into the  
25 computer? Do you just put this in the

26

1 file and something happens to it?

2 A. It goes into the file.

3 Q. It just goes into the file?

4 A. Yes.

5 Q. Do you make any assumptions based on this  
6 prognosis number nine here that we just  
7 looked at, as to whether or not the  
8 insured will return to work on March 15th?

9 A. The only assumption I make is that that's  
10 what the physician fills out that a person  
11 would be able to return to work by.

12 Q. If you determine that Ms. Mathews was  
13 qualified for benefits, would you  
14 automatically cut her benefits off on  
15 March 15th based only on this document?

16 A. Yes, I would.

17 Q. Would you check with her to see if she  
18 returned to work?

19 A. No, I would not.

20 Q. Would you check with the physician to see  
21 if he had changed his opinion?

22 A. No, I would not.

23 Q. Would you check with the employer to see  
24 if she had returned to work?

25 A. No, I would not.

26

1 Q. You would rely solely on this document  
2 with a prognosis of March 15th to cut off  
3 her benefits?

4 A. Yes, I would.

5 Q. Is that Pan American's policy and practice  
6 regarding disability policies?

7 A. Yes.

8 MR. EVANS:

9 Take our break now?

10 MR. KINNEY:

11 Sure.

12 (Off the record.)

13 BY MR. KINNEY:

14 Q. Mr. Jones, we are back on the record after  
15 a short break. We were talking about  
16 Exhibit 9 when we took the break. It's  
17 still in front of you I believe.

18 A. Yes.

19 Q. I want you to look at Section 11 of this  
20 document under "remarks." You see that?

21 A. Okay.

22 Q. "May need surgical intervention." Do you  
23 see that?

24 A. Yes, I do.

25 Q. Would that affect your decision in any way

26

about whether or not you should assume  
that Ms. Mathews returns to work on  
March 15th?

4 A. No.

5 Q. Now, would your -- suppose instead of  
6 March 15th here it had said June 15th,  
7 would you have automatically cut off her  
8 benefits on June 15th in that situation?

9 A. Yes.

10 Q. With no further inquiry?

11 A. That's correct.

12 Q. I'll show you another document, which we  
13 will mark as Exhibit 10 to this  
14 deposition. I'll represent that this was  
15 produced to me by Pan American's attorney.  
16 It goes from bates stamp PAL0714 through  
17 720. Do you have that in front of you,  
18 sir?

19 (Exhibit 10, medical records  
20 request, was marked for  
21 identification.)

22 A. Yes.

23 Q. What those documents that are stapled  
24 together as Exhibit 10?

25 A. Just a record of the medical records

1 requests that were placed through E.M.S.I.

2 Q. Do you personally place these requests, or  
3 is that done by somebody at Pan Am?

4 A. No. That is it done by somebody else.

5 Q. Would Elaine Bourg have been the person  
6 who did this?

7 A. Yes.

8 Q. That would be within her job  
9 responsibilities?

10 A. Yes.

11 Q. Can you tell when these records were  
12 ordered from these documents that you have  
13 in front of you?

14 A. Well, I can tell they were printed out on  
15 the 13th of February 2006.

16 Q. Does that indicate to you that they were  
17 ordered on or about the 13th of February?

18 A. Yes.

19 Q. Is it Pan American standard policy to send  
20 that request for the treating physician's  
21 records?

22 A. Yes.

23 Q. And when the records are received back  
24 from the treating physicians, does  
25 somebody read them?

26

1 A. Yes.

2 Q. Now, I notice on the first page of the  
3 Exhibit 10 under "attending physician  
4 statement" there's the word, next to it  
5 the word "success." Do you see that?

6 A. Yes, I do.

7 Q. What does that mean?

8 A. It means that the data collections  
9 specialties were able to make some sort of  
10 contact with that physician.

11 Q. Is that Dr. Bodor on this first page?

12 A. Yes, that's the name on my first page.

13 Q. Does the word "success" mean that there  
14 had been a successful contact with  
15 Dr. Bodor?

16 A. Yes.

17 Q. Can you tell what sort of contact that was  
18 by looking at Exhibit 10?

19 A. No.

20 Q. Is it typically a telephone call that's  
21 made?

22 A. I would imagine. I'm not actually  
23 involved in that aspect of it.

24 Q. I don't want -- if you don't do it, just  
25 say you don't do it.

26

1 A. I don't do it.

2 Q. Okay. Fine. Do you know what the  
3 elimination period was for Ms. Mathews'  
4 policies?

5 A. Not right off the top of my head.

6 Q. I'm going to represent to you it was 60  
7 days.

8 A. Okay.

9 Q. And that she represented to Pan Am that  
10 she was injured on December 15, 2005.

11 Okay?

12 A. Okay.

13 Q. Is it your understanding that if benefits  
14 would become payable to her, the benefit  
15 period would begin on February 14th of  
16 '06?

17 A. It would begin after the elimination  
18 period had ended.

19 Q. And do you know if Pan Am made a payment  
20 to Ms. Mathews for the period that began  
21 in February of '06, after the elimination  
22 period?

23 A. Yes.

24 Q. I'm going to show you another document,  
25 which we will a mark as Exhibit 11 for the  
26

1 purpose of this deposition. Mr. Jones,  
2 I've just handed you a document marked as  
3 Exhibit 11 for the purposes of this  
4 deposition. Can you tell what that is?

5 (Exhibit 11, medical records,  
6 were marked for  
7 identification.)

8 A. Sure. It is a medical record.

9 Q. Can you tell what doctor this applies to?

10 A. Yes, I can.

11 Q. Who is that?

12 A. Dr. Alexander.

13 Q. Can you tell when Pan Am received this  
14 record in Exhibit 11?

15 A. Yes.

16 Q. When?

17 A. It says, "Entered March 14, 2006."

18 Q. And that would be the date it was  
19 received?

20 A. Yes.

21 Q. And did you read it when it came in?

22 A. Yes. I would have looked at it.

23 Q. I want you to turn to the last page that's  
24 bates stamp PAL0206. Do you have that in  
25 front of you now?

26

1 A. Yes.

2 Q. Do you see the date of this chart record?

3 A. Yes, I do.

4 Q. What is the date?

5 A. It says 2/21/06.

6 Q. And I want you to look at the last

7 sentence under Category P. Do you see

8 that?

9 A. Yes, I do.

10 Q. "We'll see her back in one month, hoping

11 she might get back to work in two months."

12 Do you see that?

13 A. Yes, I do.

14 Q. So based on that, was it your

15 understanding that Ms. Mathews was back at

16 work on February 21, 2006?

17 A. This doesn't indicate that she's back at

18 work at that time.

19 Q. Was it your understanding, based on this,

20 that she would be back at work on

21 March 15, 2006?

22 A. It's not stated definitively.

23 Q. I want you to go -- here's my question for

24 you, when you received Exhibit 11, did

25 that change in any way your belief based

26

1           on Exhibit 9 that Ms. Mathews was  
2           returning to work on March 15, 2006?

3       A. No.

4       Q. Why not?

5       A. Why didn't it change my mind?

6       Q. Why didn't it change your opinion? You  
7           have an opinion based on Exhibit 9 that  
8           she was going back to work on March 19th.

9           Right?

10      A. Yes.

11      Q. And then you received Exhibit 11 with the  
12           language we just looked at. Right?

13      A. Yes.

14      Q. Why didn't Exhibit 11 cause you to revise  
15           your opinion that you made based on  
16           Exhibit 9?

17      A. Because the attending physician statement  
18           is typically the guiding document as far  
19           as when we would expect a person to return  
20           back to work. So that's what I go by.

21      Q. Even when the same doctor provides updated  
22           information that contradicts that; is that  
23           right?

24      A. I didn't see that.

25      Q. Well, this is Dr. Alexander's record,

26

1 right, Exhibit 11?

2 A. Uh-huh.

3 Q. And this attending physician statement is

4 also from Dr. Alexander; isn't it?

5 A. Yes.

6 Q. And Exhibit 11 was made more recently than

7 Exhibit 9. Right?

8 A. Yes.

9 Q. And Exhibit 11 indicates she was going to  
10 be out of work for a couple more months.

11 Right?

12 A. He says hoping.

13 Q. Hoping?

14 A. He wasn't definitive either way.

15 Q. Do you recall, when you looked at  
16 Exhibit 11 back in 2006, whether you  
17 noticed this sentence that I just had you  
18 read to the effect that Dr. Alexander was  
19 going to have her come back in one month,  
20 hoping she might get back to work in two  
21 months?

22 A. Do I recall?

23 Q. Yeah, do you recall seeing that?

24 A. Vaguely.

25 Q. Do you recall whether you, whether it

26

1 occurred to you that that might contradict  
2 the attending physician statement, Exhibit  
3 9?

4 A. Yes. That would have crossed my mind.

5 Q. Was there some reason that you didn't  
6 follow up with a phone call to somebody to  
7 find out when Ms. Mathews was really  
8 returning to work?

9 A. Yes.

10 Q. Why?

11 A. That wouldn't be the procedure. This is a  
12 self-reported claim. The insureds called  
13 the company and say, hello, I'm disabled.  
14 We send them the forms.

15 What the whole process is driven by  
16 what the insured is doing, saying. It's  
17 not driven by me picking up the phone and,  
18 for instance, calling every policyholder  
19 that we have to see if they're doing okay  
20 that day.

21 I wouldn't pick up the phone and call  
22 her like I wouldn't pick up the phone and  
23 call any other policyholder.

24 Q. Even when you see an ambiguity or a  
25 question is raised in your mind as to

26

1 what's going on?

2 A. That's correct.

3 Q. Is it Pan America Life Insurance Company's  
4 policy not to investigate when an insured  
5 is going to return to work?

6 A. Yes.

7 Q. That's the policy?

8 MR. EVANS:

9 Objection. It assumes some  
10 facts not in evidence, and it's  
11 overbroad.

12 MR. KINNEY:

13 I'm going to stop. I think I  
14 have enough on that subject.

15 BY MR. KINNEY:

16 Q. We're going to go to the next exhibit,  
17 which we'll mark as Exhibit 12 for the  
18 purposes of this deposition.

19 Mr Jones, you've been handed a document  
20 marked as Exhibit 12 which consists of,  
21 what appears to be a check and a form. Do  
22 you see that?

23 (Exhibit 12, check and form,  
24 were marked for  
25 identification.)

26

1 A. Yes.

2 Q. Can you tell -- strike that. I see  
3 there's some handwriting on the check  
4 underneath the date March 7, 2007. Do you  
5 see that?

6 A. Yes.

7 Q. Do you know whose handwriting that is?

8 A. No.

9 Q. Not yours?

10 A. No.

11 Q. I like you to turn to the second page.

12 This is a form that seems to be entitled  
13 "Accident and health claim check  
14 request/work sheet." Do you see that?

15 A. Yes, I do.

16 Q. Is a document like this prepared every  
17 time a benefits check is issued?

18 A. Yes.

19 Q. And is this a document prepared in the  
20 ordinary course of business of Pan  
21 American Life Insurance Company?

22 A. Yes.

23 Q. Is it made at or about the time of the  
24 events that are reflected in there?

25 A. Yes.

26

1 Q. Can you tell what date this particular  
2 document was prepared?

3 A. Yes.

4 Q. What?

5 A. March 6 of 2006.

6 Q. And does it refer to a benefits payment?

7 A. Yes.

8 Q. How much?

9 A. \$500.

10 Q. On which policy?

11 A. Policy belonging to 57-758.

12 Q. There's a category there, A-U-T-H, under  
13 which some initials appear, MRJ1. Do you  
14 know whose initials those are?

15 A. Those would be mine.

16 Q. And does that reflect the fact that you  
17 have authorized this payment?

18 A. No.

19 Q. Well, what does it mean then?

20 A. It's a code that would allow for the  
21 processing of the check.

22 Q. Why do your initials appear on this  
23 document?

24 A. Because those are the initials Elaine used  
25 to process the check.

26

1 Q. Did you have anything to do with the  
2 processing of this check?

3 A. No. Just approving it for benefits.

4 Q. So you would have approved her for  
5 benefits before this had been prepared; is  
6 that right?

7 A. Yes.

8 Q. You see the monthly benefit period for  
9 this particular check?

10 A. Yes.

11 Q. And that would be what?

12 A. February 14th of 2006 to March 14th of  
13 2006.

14 Q. So that would be -- am I right that the  
15 check would have issued covering that  
16 particular period of benefits; is that  
17 right?

18 A. Yes.

19 Q. So that check would have been for the  
20 current period of benefits. Right?

21 A. The current period?

22 Q. Yes. In other words, is a check issued on  
23 March 6th covering the period from  
24 February to March of '06?

25 A. Yes. It would've been current at that

26

1 time.

2 Q. Is that Pan American's policy to pay  
3 current benefits?

4 A. Yes.

5 Q. Is it ever Pan America's policy to  
6 withhold benefits for a period of, say, 90  
7 days?

8 A. I'm sorry. Could you --

9 Q. Do you know what it means to pay in the  
10 rears?

11 A. Yes.

12 Q. Does Pan Am ever pay benefits 90 days in  
13 the rears?

14 A. Yes.

15 Q. Why would it pay benefits in the rears?

16 A. Well, depends on when we received  
17 notification of the person being disabled.

18 Q. So, in other words, sometimes you would  
19 have to pay back benefits to catch up to  
20 the current period; is that right?

21 A. Yes.

22 Q. Once you've done that on the first  
23 instance, do you thereafter pay for the  
24 current period?

25 A. Yes.

26

1 Q. You don't continue to run at 90 days in  
2 the rears, do you?

3 A. No.

4 Q. Can you think of any reason why Pan Am  
5 would continue to pay benefits 90 days in  
6 the rears over the life of a policy?

7 A. Well, one reason I could think of would  
8 just be because of the sequence of events  
9 with the dating of the EOBS, of the check  
10 request sheet, that, that could be off.

11 Q. It could just be the check request sheets  
12 that are off?

13 A. Yes. That happens.

14 Q. Does Pan Am have any policy or practice in  
15 place to make sure that it's paying  
16 benefits currently rather than 90 days or  
17 so in the rears?

18 A. Just to go back and look at the claims,  
19 the policies.

20 Q. When it does -- if you were to do that and  
21 see that the claims were 90 days in the  
22 rears, would you pay 90 days worth of  
23 benefits all at once and catch them up?

24 A. Yes.

25 Q. And I see also at the bottom of the page  
26

1           you're looking at, Exhibit 12, I see  
2           Elaine Bourg's name.

3       A. Yes.

4       Q. Was this document prepared by Ms. Bourg?

5       A. Yes.

6       Q. Does Ms. Bourg still work for Pan  
7           American?

8       A. No.

9       Q. Do you know when she ceased to work for  
10           Pan American?

11      A. Yes.

12      Q. When?

13      A. The middle of January of this year.

14      Q. Has she been replaced by somebody else?

15      A. Yes.

16      Q. Who's her replacement?

17      A. Juanita Varela, V-A-R-E-L-A.

18      Q. Am I correct, then, that all of the  
19           documents of this sort that go out after  
20           the middle of January will no longer be  
21           signed by Elaine Bourg but will be signed  
22           by Ms. Varela; is that right?

23      A. I'm assuming that we remembered to change  
24           the excelsal (spelled phonetically), yes.

25      Q. Let's go to the next document, which we'll

26

1 marked as Exhibit 13 for purposes of this  
2 deposition. Do you have that in front of  
3 you, sir, Exhibit 13?

4 (Exhibit 12, check and  
5 document, were marked for  
6 identification.)

7 A. Yeah, I'm looking at Exhibit 13.

8 Q. That, like Exhibit 12, is a check with a  
9 document attached. This is also, looking  
10 at the second page, this is also a work  
11 sheet related to Donna Mathews; is it not?

12 A. Yes, it is.

13 Q. And this is also, references a check that  
14 was payable to her in the sum of \$1,700;  
15 is that right?

16 A. That's correct.

17 Q. And this check was also payable on  
18 March 6th. Right?

19 A. The check request was created on  
20 March 6th.

21 Q. And it was for the current period of  
22 February 14th, '06 through March 14th,  
23 '06. Right?

24 A. That's correct.

25 Q. I want you to go back to the Exhibit 12,  
26

1 that we looked at a minute ago.

2 A. Okay.

3 Q. The work sheet on page two of Exhibit 12  
4 toward the bottom right above Ms. Bourg's  
5 name there's an entry that says "Final  
6 benefit return to work." Do you see that?

7 A. Yes.

8 Q. Do you know what was the source of that  
9 particular piece of information?

10 A. The attending physician statement.

11 Q. And nothing else. Right?

12 A. That's correct.

13 Q. Now, that didn't appear on the bottom  
14 right of Exhibit 13. Do you see that?

15 A. That's correct.

16 Q. Do you know how come that's missing from  
17 the bottom right of Exhibit 13?

18 A. No.

19 Q. Let's go to the next document, which we'll  
20 mark as Exhibit 14 for the purpose of this  
21 deposition. I show you that document,  
22 sir, and ask if you can identify it?

23 (Exhibit 14, letter, was marked  
24 for identification.)

25 A. It's a letter with Pan American at the

26

1 upper left-hand side.

2 Q. It's from Elaine Bourg to Donna Mathews.

3 Right?

4 A. That's correct.

5 Q. Do you know why Ms. Bourg sent out this  
6 letter?

7 A. No.

8 Q. Did you tell her to send it out?

9 A. I don't recall that.

10 Q. Is it -- was it her practice while she was  
11 working at Pan Am to send out letters that  
12 were not directed by you?

13 A. On occasion.

14 Q. Do you know what forms would have been  
15 enclosed with this letter?

16 A. Not with complete certainty.

17 Q. You see it says, "Forms to be completed by  
18 you and your physician." Do you see that?

19 A. Yes, I do.

20 Q. Were there forms that Pan Am was regularly  
21 using in March of '06 that were to be  
22 completed both by claimant and physician?

23 A. The attending physician statement.

24 Q. Anything else?

25 A. I can't think of anything else that would

26

1 fit that definition right now.

2 Q. Do you know of any reason why Ms. Bourg  
3 would be sending out a attending physician  
4 statement on March 6, 2006?

5 A. No.

6 Q. Okay. Let's go to one more. We marked  
7 that as Exhibit 15 for this deposition.  
8 I'll show you that, sir, and ask if you  
9 can identify that?

10 (Exhibit 15, letter, was marked  
11 for identification.)

12 A. Yes. It's a letter on Pan American Life  
13 letterhead.

14 Q. This is the letter from you. Right?

15 A. That's correct.

16 Q. I noticed there's no actual ink signature  
17 on this document. Or, in fact, I wasn't  
18 able to find any signatures on any of the  
19 letters. Do you not actually physically  
20 sign your letters?

21 A. No, we do not.

22 Q. What was this letter about?

23 A. This was, this was to detail the return of  
24 her premium for the period that she had  
25 been disabled.

26

1 Q. This is the waiver of premium was  
2 approved. Is that what you're talking  
3 about?

4 A. Yes.

5 Q. And you sent her a check or \$88.40. Do  
6 you recall how you calculated that sum?

7 A. I would've looked at what her premium, her  
8 premium charges were.

9 Q. Then I like you to go to the paragraph  
10 that follows the amount of \$88.40, "Future  
11 premiums would be waived." Do you see  
12 that?

13 A. Yes, I do.

14 Q. "As long as you continue to be disabled  
15 within the meaning of the policy, you will  
16 be advised" -- let me just -- I'm doing a  
17 bad job.

18 I'm going to read that paragraph into  
19 the record: "The future premiums will be  
20 waive as long as you continue to be  
21 disabled within the meaning of the  
22 disability agreement. And the company  
23 reserves the right to require evidence of  
24 your continued disability in accordance  
25 with the provisions thereof. You will be

26

1 advised when such evidence is decided."

2 Do you see that?

3 A. Yes.

4 Q. Now, this letter was dated March 13, 2006.

5 Right?

6 A. Yes.

7 Q. And at that time it was your intention to

8 cut off her disability benefits on

9 March 15, 2006; is that right?

10 A. Yes. According to the A.P.S.

11 Q. So why didn't you tell her in this letter

12 that she was going to be cut off on

13 March 15th?

14 A. Because this was addressing the return of  
15 her premium moneys.

16 Q. But this paragraph says, this paragraph

17 addresses her continued disability in

18 accordance with the provisions. Right?

19 A. Yes, it does.

20 Q. You had already decided to cut off her

21 benefits in two days; is that right?

22 A. That was the timing that benefits were  
23 scheduled to stop.

24 Q. And yet you say, "You will be advised when  
25 such evidence is desired." Do you see

26

1           that?

2   A. Yes.

3   Q. Well, why didn't you tell her on  
4           March 13th that you were cutting off her  
5           benefits on March 15th and give her an  
6           opportunity to provide such additional  
7           evidence?

8   A. Why didn't I do that?

9   Q. Yes.

10   A. Because it's a self-reporting claim.

11   Q. Were you concerned that this letter would  
12       mislead her into believing that she was  
13       going to continue to receive benefits?

14   A. No, I would not interpret this letter as  
15       being misleading.

16   Q. And the final sentence in this letter --

17   A. Okay.

18   Q. "We certainly hope your health will  
19       improve soon." Do you see that?

20   A. Yes.

21   Q. Did you believe that she had a condition  
22       as of March 13, 2006 that needed to  
23       improve?

24   A. I can't exactly say that. This is just a  
25       wording that goes along with the standard

26

1 letters.

2 Q. Well, don't you think that someone who  
3 received a letter that said that would  
4 assume that the insurance company  
5 understood that her health had not  
6 improved yet?

7 A. No.

8 Q. This \$88.40 referenced on Exhibit 15 and  
9 on the check that is behind it on Exhibit  
10 15, do you know how many months premium  
11 that was?

12 A. I believe it to be two. I could be wrong  
13 because I'm not looking at the actual  
14 premium schedule.

15 Q. Now, she had another policy of insurance  
16 besides 127-758 that you knew of as of  
17 March 13. Correct?

18 A. I'm story?

19 Q. I'll just make it easy. We'll mark this  
20 as the next exhibit, Exhibit 16. I show  
21 you, Mr. Jones, a letter which we marked  
22 as Exhibit 16, also dated March 13, 2006.

23 Do you have that in front of you?

24 (Exhibit 16, letter, was marked  
25 for identification.)

26

1 A. Yes, I do.

2 Q. That refers to another premium refund of  
3 \$114.14. Do you see that?

4 A. Yes, I do.

5 Q. Do you know the period of time that that  
6 premium refund applied to?

7 A. It would be the same period of time as the  
8 Exhibit 15.

9 Q. And that premium was for the policy that's  
10 referenced in this letter, Exhibit 16?

11 A. Yes.

12 Q. Let's go to another exhibit, which we'll  
13 mark as Exhibit 17. Do you have that in  
14 front of you now, Mr. Jones, Exhibit 17?

15 (Exhibit 17, claimant's  
16 statement, was marked for  
17 identification.)

18 A. Yes, I do.

19 Q. Do you know what that is?

20 A. Yes.

21 Q. What is it?

22 A. It is a claimant's statement.

23 Q. Do you know when you received this  
24 document?

25 A. Yes.

26

1 Q. When?

2 A. April 3, 2006.

3 Q. I direct you to Category 6.

4 A. Okay.

5 Q. Date total disability began. Do you see  
6 that sub-category A, "Are you still  
7 totally disabled and unable to perform all  
8 the duties of your regular occupation"?

9 Checked box yes. Do you see that?

10 A. Yes, I do.

11 Q. Now, at the time you received this  
12 document on April 3, 2006, was Pan  
13 American Life paying Ms. Mathews'  
14 benefits?

15 A. I don't recall.

16 Q. Well, I will represent to you, sir, that  
17 no benefits were paid for a period of  
18 time --

19 A. Okay.

20 Q. -- following the payments that we looked  
21 at earlier that were made in March of  
22 2006.

23 A. Okay.

24 Q. And you testified that you would  
25 automatically have ceased making payments

26

1           based on the March 15th date in the first  
2           attending physician statement. Okay?

3           My question is, when you received this  
4           document in April of 2006, did that cause  
5           you to consider that Ms. Mathews might  
6           still be disabled even though it was now  
7           after March 15th?

8       A. Yes, that could have caused me to consider  
9           that.

10     Q. Then what would you do if you saw this and  
11           considered that she was still disabled?

12     A. We would go about gathering the most  
13           update medical records that we could.

14     Q. Did you do that?

15     A. Probably.

16     Q. You don't recall?

17     A. Yes.

18     Q. Now, I want you to go to the back of this  
19           document, the very last page, which is  
20           bates stamp PAL0536, at the top of the  
21           page which is where the writing is.

22     A. Uh-huh.

23     Q. Ms. Mathews is referring to a consultation  
24           she had with her physician. And she says,  
25           "He recommended that I pursue occupational

26

1 retraining." Do you see that?

2 A. Yes.

3 Q. Did you see that when this document came  
4 in in April of 2006?

5 A. Yes.

6 Q. Did that cause you to contact Ms. Mathews  
7 and advise her that her policy provided  
8 for occupational retraining?

9 A. I'm sorry. Did you say would or could?

10 Q. Did you contact her after you saw this to  
11 tell her that her policy provided a  
12 benefit for occupational retraining?

13 A. No.

14 Q. Why not?

15 A. That's not our practice. The benefits are  
16 spelled out in the policy.

17 Q. It's Pan American's view that it's up to  
18 the policyholder to determine what  
19 benefits are available and to ask for  
20 them; is that correct?

21 MR. EVANS:

22 Objection. Misstates his  
23 testimony.

24 MR. KINNEY:

25 Well, I'm trying to find out his  
26

1 testimony.

2 MR. EVANS:

3 Okay. That's not what he said.

4 BY MR. KINNEY:

5 Q. What do you say in answer to that

6 question, sir?

7 A. That these are insured self-reporting  
8 claims. And that when the insured decides  
9 to use their policy, we respond to  
10 whatever their requests are.

11 Q. If there's a benefit in the policy and the  
12 insured doesn't ask for it, they don't get  
13 it; is that right?

14 A. I couldn't make a definitive statement  
15 towards that.

16 Q. But it is correct that you make no effort  
17 to advise the insured what benefits are  
18 available to them in their policies; is  
19 that right?

20 A. Yes, that's correct.

21 Q. Let's do another one. I'll show you yet  
22 another document we'll mark as Exhibit 18  
23 to this deposition. Do you have that in  
24 front of you, sir?

25 (Exhibit 18, attending

26

1 physician statement, was marked  
2 for identification.)

3 A. Yes.

4 Q. What is this?

5 A. This is an attending physician statement.

6 Q. Could you tell when you received it?

7           A. Yes.

8 Q. When?

9 A. The stamp says April 3, 2006.

10 Q. I draw your attention to Section 9 on

11 Page 2 of this document. Are you there?

12 A. Yes, I am.

13 Q. You see the section, "Is the patient now  
14 totally disabled from performing his/her  
15 regular occupation"? Do you see that  
16 section?

17 A. Yes.

18 Q. And what box is checked?

19       A. The box to the right of three to six  
20                      months.

21 Q. So from this document, Exhibit 18, did you  
22 understand that Ms. Mathews was out of  
23 work due to a disability?

24 A. I understood that she had a physician that  
25 felt that she would not be able to go to

1 work for three to six months.

2 Q. Did you understand she was out, she was  
3 not currently at work?

4 A. Yes.

5 Q. And did this cause you to start her  
6 benefits back up?

7 A. I don't recall this being the document  
8 that caused me to start her benefits back  
9 up.

10 Q. Why not?

11 A. Why don't I recall it?

12 Q. I mean, I will represent to you, sir, she  
13 did not receive another benefit until July  
14 of 2006.

15 A. Okay.

16 Q. I would like to know why this didn't  
17 restart her benefits?

18 A. Well, the attending physician statement is  
19 a guideline. As we had received the  
20 initial attending physician statement, we  
21 ordered the medical records.

22 I received another attending physician  
23 statement. I ordered the medical records.

24 After the evaluation of the medical  
25 records, were able to make a decision on

26

1 whether or not to extend benefits.

2 MR. KINNEY:

3 We're gonna wrap this deposition  
4 up. The court reporter is gonna  
5 prepare today's volume of the  
6 deposition as a separate volume and  
7 certify it.

8 We're gonna come back tomorrow  
9 with Mr. Jones and have another day  
10 of deposition tomorrow.

11 MR. EVANS:

12 Right. At 11:00.

13 MR. KINNEY:

14 That's fine. Okay.

15 (Conclusion.)

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1                   Video deposition of MICHAEL JONES

2                   taken on March 13, 2008

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4

5                   WITNESS' CERTIFICATE

6

7

8                 I have read or have had the foregoing  
9                 testimony read to me and hereby certify that  
10          it is a true and correct transcription of my  
11          testimony, with the exception of any attached  
12          corrections or changes.

13

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18                 MICHAEL JONES

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## 1 REPORTER'S CERTIFICATE

2 I, THERESA MATHERNE, Certified Court  
3 Reporter, do hereby certify that the  
4 above-mentioned witness, after having been  
5 first duly sworn by me to testify to the  
6 truth, did testify as hereinabove set forth;

7 That the testimony was reported by me in  
8 shorthand and transcribed under my personal  
9 direction and supervision, and is a true and  
10 correct transcript, to the best of my ability  
11 and understanding;

12 That I am not of counsel, not related to  
13 counsel or the parties hereto, and not in any  
14 way interested in the outcome of this matter.

15

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20 THERESA (TERRI) MATHERNE

21 CERTIFIED COURT REPORTER

22 REGISTERED PROFESSIONAL REPORTER

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